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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/001,371	10/25/2001	Anatoly Gosis	13076	2324

7590

08/20/2003

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EXAMINER

KEASEL, ERIC S

ART UNIT

PAPER NUMBER

3754

DATE MAILED: 08/20/2003

5

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/001,371

Applicant(s)

GOSIS ET AL.

Examiner

Eric Keasel

Art Unit

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4. 6) ☐ Other:

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-18, 20-22, 24-27, 29, and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by An (US Patent Number 4,538,789).

An discloses a valve assembly, comprising: a valve body (23) having a passage (40, 41) defining a first axis (44), and a bore defining a second axis (33) arranged generally coplanar with and normal to the first axis, the bore having an inner surface (28a, 28b) defined by an inner periphery thereof; and a valve structure (26) mounted in the bore for rotation about the second axis between a closed position, wherein the valve structure cooperates with the inner surface of the bore to obstruct movement of product through the passage, and an open position, wherein the valve structure is positioned relative to the inner surface of the bore so as to permit product movement through the passage; wherein a diameter of the bore is equal to or greater than a distance measured across any two diametrically opposed locations defined by a marginal edge of the passage (see Figs. 1 or 2 and note applicant's discussion of this limitation in the paragraph bridging pages 7 and 8 of the specification); the valve structure comprising a pair of radial flanges (26a, 26b) disposed at opposed ends with a solid rectangular web member (46) extending

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therebetween; wherein the valve structure includes a seal structure having a first seal portion (69) extending lengthwise on one side of the web member and generally parallel to the axis of rotation of the valve structure, a second seal portion (68) extending lengthwise on an opposite side of the web member and generally parallel to the axis of rotation of the valve structure, a third seal portion (65) extending around one of the radial flanges, and a fourth seal portion (66) extending around the other radial flange, thereby creating a seal between the valve structure and the bore to prevent movement of product therepast when the valve structure is in the closed position such that the valve structure and the bore create a straight line seal therebetween (see Fig. 2) so that a force created between the seal structure and the bore along the seal line does not substantially increase or vary as the seal structure rotates between the open and closed positions, thereby enhancing ergonomic operation of the valve structure; wherein the seal structure applies a wiping action to the cooperative inner surface of the bore as the valve structure moves between the open and closed positions (compare applicant's Fig. 6 to An's Fig. 4); wherein the web member and flanges each include an appropriate slot (73, 74, 70, 71) adapted to receive the respective seal portion; wherein the seal structure is made of a single piece of material (see column 3, lines 51-55); wherein the seal structure is an elastomeric seal (see column 3, line 56); further including stops for limiting movement of the valve structure between the open and closed positions (see column 5, lines 1-8); and further comprising a rotation assistance device (57) positioned on one end of one of the flanges to allow the valve structure to be rotated between the open and closed positions.

*Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 19 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over An as applied to claims 17 and 22 above, and further in view of Ito et al. (US Patent Number 6,047,951).

An discloses the valve body and valve structure as being a molded material (see column 3, lines 57-59), but fails to disclose the more specific nylon material. Ito et al. disclose the use of nylon as the material choice for the both the valve body and valve structure in a similar rotary butterfly valve with an elastomeric seal (see column 4, lines 24-31). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the material selection of nylon for both the valve body and valve structure of An in order to

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integrally form the elastomeric seal and valve structure as taught by Ito et al. (see column 4, lines 13-31).

5. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over An as applied to claim 22 above, and further in view of Sasaki et al. (US Patent Number 5,433,345).

An discloses the generic use of the valve assembly with a product holding container; but fails to disclose the more specific intended use with the product holding container being a liquid container having an outer container in surrounding relation to an inner container, and fails to disclose the positive recitation that the valve body include an outer flange member adapted to facilitate attachment of the valve body to the inner container.

Sasaki et al. disclose a similar valved outlet with an outer flange (512) that is adapted to mate with an inner container (503) that is surrounded by an outer container (502). The mating method is the same ultrasonic sealing disclosed by applicant (see the discussion of the sixth embodiment, especially column 31). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have added the outer flange of Sasaki et al. to the valve assembly of An and mated this flange to an inner container surrounded by an outer container in order to allow the passage to be mounted in a predetermined position, thus simplifying the mating process and allowing smooth discharge of the contents of the inner bag as taught by Sasaki et al. (see column 4, line 64 to column 5, line 8).

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*Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Callahan, Stainton et al., Cooper, Rader, Shur, and Ortega disclose similar valves that anticipate at least some of the claims.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Keasel whose telephone number is (703) 308-6260. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Mancene can be reached on (703) 308-2696. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0861.

 19 AUG 03  
Eric Keasel  
Examiner  
Art Unit 3754